

THE HONORABLE JUDGE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

SEAN DRYKE, a single man,

Plaintiff,

v.

AMERICAN FAMILY MUTUAL
INSURANCE COMPANY, S.I., a foreign
insurance company,

Defendant.

No. 3:20-cv-05723-BHS

**STIPULATED MOTION OF LIMITED
DISMISSAL OF PLAINTIFF DRYKE'S
CLAIMS**

**NOTE ON MOTION CALENDAR:
August 31, 2021**

COME NOW, the Parties, by and through their counsel of record, and respectfully move
this Court, via stipulation, as follows:

I. STIPULATION

1. This is a first-party insurance coverage dispute, in which the Plaintiff, Sean Dryke ("Plaintiff"), asserts claims for violations of the Insurance Fair Conduct Act ("IFCA") and the Consumer Protection Act ("CPA"), and bad faith. Defendant American Family Mutual Insurance Company, S.I. ("American Family") denies any and all liability.
2. Plaintiff's Complaint seeks relief in the form of judgment against American Family, "for reasonable attorney fees, litigation and expert costs incurred in

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OF PLAINTIFF DRYKE'S CLAIMS - 1**

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prosecution this action against Defendant AMERICAN FAMILY pursuant to the CPA, IFCA, *Olympic S.S. CO., Inc. v. Centennial Ins. Co.*, 117 Wn.2d 37, 811 P.2d 673 (1991), and any other equitable remedies that may be available... ” See ECF 1-2 (Complaint) a pg. 17, ¶3.

3. Defendant American Family denies any claims, expressed or implied, contained in Plaintiff’s Prayer for Relief. See ECF 6 at pg. 17:20-23.

4. The Parties stipulate and agree that an American Family policy of insurance issued to Plaintiff Dryke (policy no.: 2374-9522-01-65-FPPA-WA) (hereinafter “the Policy”) was in place on April 26, 2016. American Family admits that at the time of the April 26, 2016 motor vehicle accident, the Policy provided for Medical Expense and UIM coverages, subject to the terms and conditions of the Policy. Specifically, the Policy provides for UIM coverage in the amount of \$100,000/\$300,000 each person/each accident and Medical Expense coverage in the amount of \$100,000 each person. American Family has not and does not deny the existence of coverage or the amount of available coverage.

5. The Parties stipulate and agree that American Family opened MedPay and UIM claims on behalf of Plaintiff Dryke at his request. Plaintiff’s demand for binding arbitration was made on October 9, 2019.

6. The Parties stipulate and agree that, “[t]he *Olympic S.S. Co.*, rule applies only to dispute over coverage, and not to disputes over the amount of a claim.” *Gossett v. Farmers Ins. Co.*, 133 Wn.2d.954,982, 948 P.2d 1264 (1997)(citing *Dayton v. Farmers Ins. Group*, 124 Wn.2d 277, 280-81, 876 P.2d 896 (1994)). American Family never denied coverage.

7. Accordingly, the Parties stipulate and agree that any claims of Plaintiff Sean Dryke being alleged under *Olympic S.S. CO., Inc. v. Centennial Ins. Co.*, are hereby dismissed in whole with prejudice and without costs.

RESPECTFULLY SUBMITTED this 31st day of August 2021 at Seattle, Washington.

WATHEN | LEID | HALL | RIDER, P.C.

s/ Kimberly Larsen Rider

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s/ Rafael Urquia (via email authorization 8/31/21)

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II. ORDER

PURSUANT TO AND IN CONFORMITY WITH the foregoing Stipulation, it is hereby **ORDERED** that Plaintiff Sean Dryke's claims against Defendant American Family under *Olympic S.S. Co., Inc. v. Centennial Ins. Co.*, are hereby **DISMISSED** in whole with prejudice and without costs.

Dated this 1st day of September, 2021.



BENJAMIN H. SETTLE
United States District Judge

Presented by:

WATHEN | LEID | HALL | RIDER, P.C.

s/ Kimberly Larsen Rider

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Approved by:

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